

**ASSEMBLY BILL**

**No. 2539**

**Introduced by Assembly Member Rod Pacheco**

February 21, 2002

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An act to amend Sections 3000 and 3001 of the Penal Code, relating to parole.

LEGISLATIVE COUNSEL'S DIGEST

AB 2539, as introduced, Rod Pacheco. Parole: sex offenses.

Existing law specifies the period of parole for various crimes for which an inmate has been imprisoned in the state prison, and provides for the discharge of certain persons from parole prior to the end of that period, as specified, unless the Department of Corrections recommends to the Board of Prison Terms that the person be retained on parole and the board, for good cause, determines that the person will be retained on parole.

This bill would add to the list of crimes for which an inmate shall be released on parole for a period of 5 rather than 3 years, those inmates convicted of an act of sexual penetration accomplished against the victims will, as specified, and inmates who have received a life sentence as an habitual sex offender.

The bill would also revise the provisions for discharge from parole after 2 years since release from confinement to apply only to inmates released on parole for a period of 3 years, and would add similar provisions for the discharge from parole after 3 years of inmates released on parole for a period of 5 years. The bill would also extend provisions for release from parole after 3 years since release from confinement that are applicable to inmates released after certain terms of imprisonment, to specified inmates released on parole for 3 years or

5 years under other provisions of law, and would specify that the 3-year period for release shall follow release from confinement or the extension of parole.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 3000 of the Penal Code is amended to  
2 read:

3 3000. (a) (1) The Legislature finds and declares that the  
4 period immediately following incarceration is critical to  
5 successful reintegration of the offender into society and to positive  
6 citizenship. It is in the interest of public safety for the state to  
7 provide for the supervision of and surveillance of parolees,  
8 including the judicious use of revocation actions, and to provide  
9 educational, vocational, family and personal counseling necessary  
10 to assist parolees in the transition between imprisonment and  
11 discharge. A sentence pursuant to Section 1168 or 1170 shall  
12 include a period of parole, unless waived, as provided in this  
13 section.

14 (2) The Legislature finds and declares that it is not the intent of  
15 this section to diminish resources allocated to the Department of  
16 Corrections for parole functions for which the department is  
17 responsible. It is also not the intent of this section to diminish the  
18 resources allocated to the Board of Prison Terms to execute its  
19 duties with respect to parole functions for which the board is  
20 responsible.

21 (3) The Legislature finds and declares that diligent effort must  
22 be made to ensure that parolees are held accountable for their  
23 criminal behavior, including, but not limited to, the satisfaction of  
24 restitution fines and orders.

25 (4) Any finding made pursuant to Article 4 (commencing  
26 with Section 6600) of Chapter 2 of Part 2 of Division 6 of the  
27 Welfare and Institutions Code, that a person is a sexually violent  
28 predator shall not toll, discharge, or otherwise affect that person's  
29 period of parole.

30 (b) Notwithstanding any provision to the contrary in Article 3  
31 (commencing with Section 3040) of this chapter, the following  
32 shall apply:



(1) At the expiration of a term of imprisonment of one year and one day, or a term of imprisonment imposed pursuant to Section 1170 or at the expiration of a term reduced pursuant to Section 2931 or 2933, if applicable, the inmate shall be released on parole for a period not exceeding three years, except that any inmate sentenced for an offense specified in paragraph (3), (4), (5), (6), (11), (16), or (18) of subdivision (c) of Section 667.5 shall be released on parole for a period not exceeding five years, unless in either case the parole authority for good cause waives parole and discharges the inmate from the custody of the department.

(2) In the case of any inmate sentenced under Section 1168, the period of parole shall not exceed five years in the case of an inmate imprisoned for any offense other than first or second degree murder for which the inmate has received a life sentence, and shall not exceed three years in the case of any other inmate, unless in either case the parole authority for good cause waives parole and discharges the inmate from custody of the department. This subdivision shall also be applicable to inmates who committed crimes prior to July 1, 1977, to the extent specified in Section 1170.2.

(3) Notwithstanding paragraphs (1) and (2), in the case of any offense for which the inmate has received a life sentence pursuant to Section 667.61 *or* 667.71, the period of parole shall be five years. Upon the request of the Department of Corrections, and on the grounds that the paroled inmate may pose a substantial danger to public safety, the Board of Prison Terms shall conduct a hearing to determine if the parolee shall be subject to a single additional five-year period of parole. The board shall conduct the hearing pursuant to the procedures and standards governing parole revocation. The request for parole extension shall be made no less than 180 days prior to the expiration of the initial five-year period of parole.

(4) The parole authority shall consider the request of any inmate regarding the length of his or her parole and the conditions thereof.

(5) Upon successful completion of parole, or at the end of the maximum statutory period of parole specified for the inmate under paragraph (1), (2), or (3), as the case may be, whichever is earlier, the inmate shall be discharged from custody. The date of the maximum statutory period of parole under this subdivision and

1 paragraphs (1), (2), and (3) shall be computed from the date of  
2 initial parole or from the date of extension of parole pursuant to  
3 paragraph (3) and shall be a period chronologically determined.  
4 Time during which parole is suspended because the prisoner has  
5 absconded or has been returned to custody as a parole violator shall  
6 not be credited toward any period of parole unless the prisoner is  
7 found not guilty of the parole violation. However, in no case,  
8 except as provided in Section 3064, may a prisoner subject to three  
9 years on parole be retained under parole supervision or in custody  
10 for a period longer than four years from the date of his or her initial  
11 parole, and, except as provided in Section 3064, in no case may a  
12 prisoner subject to five years on parole be retained under parole  
13 supervision or in custody for a period longer than seven years from  
14 the date of his or her initial parole or from the date of extension of  
15 parole pursuant to paragraph (3).

16 (6) The Department of Corrections shall meet with each inmate  
17 at least 30 days prior to his or her good time release date and shall  
18 provide, under guidelines specified by the parole authority, the  
19 conditions of parole and the length of parole up to the maximum  
20 period of time provided by law. The inmate has the right to  
21 reconsideration of the length of parole and conditions thereof by  
22 the parole authority. The Department of Corrections or the Board  
23 of Prison Terms may impose as a condition of parole that a prisoner  
24 make payments on the prisoner's outstanding restitution fines or  
25 orders imposed pursuant to subdivision (a) or (c) of Section 13967  
26 of the Government Code, as operative prior to September 28,  
27 1994, or subdivision (b) or (f) of Section 1202.4.

28 (7) For purposes of this chapter, the Board of Prison Terms  
29 shall be considered the parole authority.

30 (8) The sole authority to issue warrants for the return to actual  
31 custody of any state prisoner released on parole rests with the  
32 Board of Prison Terms, except for any escaped state prisoner or  
33 any state prisoner released prior to his or her scheduled release date  
34 who should be returned to custody, and Section 3060 shall apply.

35 (9) It is the intent of the Legislature that efforts be made with  
36 respect to persons who are subject to subparagraph (C) of  
37 paragraph (1) of subdivision (a) of Section 290 who are on parole  
38 to engage them in treatment.

39 SEC. 2. Section 3001 of the Penal Code is amended to read:



1     3001. (a) Notwithstanding any other provision of law, when  
2 any person referred to in paragraph (1) of subdivision (b) of  
3 Section 3000 who was not imprisoned for committing a violent  
4 felony, as defined in subdivision (c) of Section 667.5, has been  
5 released on parole from the state prison, and has been on parole  
6 continuously for one year since release from confinement, within  
7 30 days, that person shall be discharged from parole, unless the  
8 Department of Corrections recommends to the Board of Prison  
9 Terms that the person be retained on parole and the board, for good  
10 cause, determines that the person will be retained.  
11 Notwithstanding any other provision of law, when any person  
12 referred to in paragraph (1) of subdivision (b) of Section 3000 who  
13 was imprisoned for committing a violent felony, as defined in  
14 subdivision (c) of Section 667.5, has been released on parole from  
15 the state prison; *for a period of three years* and has been on parole  
16 continuously for two years since release from confinement, *or has*  
17 *been released on parole from the state prison for a period of five*  
18 *years and has been on parole continuously for three years since*  
19 *release from confinement*, the department shall discharge, within  
20 30 days, that person from parole, unless the department  
21 recommends to the board that the person be retained on parole and  
22 the board for good cause, determines that the person will be  
23 retained. The board shall make a written record of its  
24 determination and the department shall transmit a copy thereof to  
25 the parolee.  
26 (b) Notwithstanding any other provision of law, when any  
27 person referred to in paragraph (2) *or* (3) of subdivision (b) of  
28 Section 3000 has been released on parole from the state prison, and  
29 has been on parole continuously for three years since release from  
30 confinement *or since extension of parole*, the board shall  
31 discharge, within 30 days, the person from parole, unless the  
32 board, for good cause, determines that the person will be retained  
33 on parole. The board shall make a written record of its  
34 determination and the department shall transmit a copy thereof to  
35 the parolee.  
36 (c) In the event of a retention on parole, the parolee shall be  
37 entitled to a review by the parole authority each year thereafter  
38 until the maximum statutory period of parole has expired.  
39 (d) The amendments to this section made during the 1987–88  
40 Regular Session of the Legislature shall only be applied

- 1 prospectively and shall not extend the parole period for any person
- 2 whose eligibility for discharge from parole was fixed as of the
- 3 effective date of those amendments.

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